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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

RORY ANDERSON, individually and ) Case No.  
on behalf of all others similarly situated,)

Plaintiff, )

vs. )

R.M. GALICIA, INC. d/b/a )  
PROGRESSIVE MANAGEMENT )  
SYSTEMS, and DOES 1-10, inclusive, )  
and each of them, )

Defendant. )

**CLASS ACTION**

**COMPLAINT FOR VIOLATIONS  
OF:**

1. NEGLIGENT VIOLATIONS  
OF THE TELEPHONE  
CONSUMER PROTECTION  
ACT [47 U.S.C. §227 ET  
SEQ.]
2. WILLFUL VIOLATIONS  
OF THE TELEPHONE  
CONSUMER PROTECTION  
ACT [47 U.S.C. §227 ET  
SEQ.]
3. FAIR DEBT COLLECTION  
PRACTICES ACT [15  
U.S.C. §1692 ET SEQ.]
4. VIOLATIONS OF THE  
ROSENTHAL FAIR DEBT  
COLLECTION PRACTICES  
ACT [CAL. CIV. CODE  
§1788 ET SEQ.]

**DEMAND FOR JURY TRIAL**

1  
2 Plaintiff RORY ANDERSON (“Plaintiff”), individually and on behalf of all  
3 others similarly situated, alleges the following against Defendant R.M. GALICIA,  
4 INC. d/b/a PROGRESSIVE MANAGEMENT SYSTEMS upon information and  
5 belief based upon personal knowledge:

### 6 **INTRODUCTION**

7 1. Plaintiff’s Class Action Complaint is brought pursuant to the  
8 Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. (“TCPA”).

9 2. Plaintiff, individually, and on behalf of all others similarly situated,  
10 brings this Complaint for damages, injunctive relief, and any other available legal  
11 or equitable remedies, resulting from the illegal actions of Defendant in  
12 negligently, knowingly, and/or willfully contacting Plaintiff no Plaintiff’s cellular  
13 telephone, thereby the TCPA, 47 U.S.C. § 227. Plaintiff alleges as follows upon  
14 personal knowledge as to herself and her own acts and experiences, and, as to all  
15 other matters, upon information and belief, including investigation conducted by  
16 her attorneys.

17 3. In addition to Plaintiff’s Class Claims, Plaintiff also brings an action  
18 for damages as an individual consumer for Defendant’s violations of the federal  
19 Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter  
20 “FDCPA”) and the Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §  
21 1788, *et seq.* (hereinafter “RFDCPA”) which prohibit debt collectors from  
22 engaging in abusive, deceptive, and unfair practices.

### 24 **JURISDICTION AND VENUE**

25 4. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,  
26 a resident of California, seeks relief on behalf of a Class, which will result in at  
27 least one class member belonging to a different state than that of Defendant, a  
28 California company. Plaintiff also seeks up to \$1,500.00 in damages for each call

1 in violation of the TCPA, which, when aggregated among a proposed class in the  
2 thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction.  
3 Therefore, both diversity jurisdiction and the damages threshold under the Class  
4 Action Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

5 5. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 over  
6 Plaintiff’s claims arising under the FDCPA, 15 U.S.C. § 1692, *et seq.* Ancillary  
7 to this claim, this Court has jurisdiction pursuant to 28 U.S.C. § 1367(a) over  
8 Plaintiff’s claims arising under the RFDCPA, Cal. Civ. Code § 1788, *et seq.*

9 6. Venue is proper in the United States District Court for the Central  
10 District of California pursuant to 28 U.S.C. § 1391(b)(2) because Defendant does  
11 business within the State of California and Plaintiff resides within this District.  
12

### 13 **PARTIES**

14 7. Plaintiff, RORY ANDERSON (“PLAINTIFF”), is a natural person  
15 residing in Los Angeles County in the state of California, and is a “person” as  
16 defined by 47 U.S.C. § 153(39). Furthermore, Plaintiff is a “consumer” as defined  
17 by the FDCPA, 15 U.S.C. §1692a(3) and a “debtor” as defined by the RFDCPA,  
18 Cal. Civ. Code § 1788.2(h).

19 8. At all relevant times herein, Defendant, R.M. GALICIA, INC. d/b/a  
20 PROGRESSIVE MANAGEMENT SYSTEMS (“DEFENDANT”), was debt  
21 collection company, and is a “person” as defined by 47 U.S.C. § 153(39).  
22 Furthermore, Defendant, at all relevant times herein, was a company engaged, by  
23 use of the mails and telephone, in the business of collecting a debt from  
24 PLAINTIFF which qualifies as a “debt,” as defined by 15 U.S.C. §1692a(5).  
25 DEFENDANT regularly attempts to collect debts alleged to be due another, and  
26 therefore is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6) and  
27 the RFDCPA, Cal. Civ. Code § 1788.2(c).  
28

1           9.     The above named Defendant, and its subsidiaries and agents, are  
2 collectively referred to as “Defendants.” The true names and capacities of the  
3 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are  
4 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious  
5 names. Each of the Defendants designated herein as a DOE is legally responsible  
6 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend  
7 the Complaint to reflect the true names and capacities of the DOE Defendants  
8 when such identities become known.

9           10.    Defendants acted through their agents, employees, officers, members,  
10 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
11 representatives, and insurers.

12                           **FACTUAL ALLEGATIONS – TCPA**

13           11.    Beginning in or around April of 2017, Defendant contacted Plaintiff  
14 on her cellular telephone number ending in -6804, in an effort to collect an alleged  
15 debt owed from Plaintiff.

16           12.    Defendant called Plaintiff from telephone numbers confirmed to  
17 belong to Defendant, including without limitation (866) 767-8444.

18           13.    In its efforts to collect the alleged debt owed from Plaintiff, Defendant  
19 used an “automatic telephone dialing system,” as defined by 47 U.S.C. § 227(a)(1)  
20 to place its daily calls to Plaintiff seeking to collect an alleged debt owed.  
21

22           14.    Defendant’s calls constituted calls that were not for emergency  
23 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

24           15.    Defendant’s calls were placed to telephone number assigned to a  
25 cellular telephone service for which Plaintiff incurs a charge for incoming calls  
26 pursuant to 47 U.S.C. § 227(b)(1).

27           16.    During all relevant times, Defendant did not possess Plaintiff’s “prior  
28 express consent” to receive calls using an automatic telephone dialing system or

1 an artificial or prerecorded voice on her cellular telephone pursuant to 47 U.S.C. §  
2 227(b)(1)(A).

3 17. Plaintiff alleges upon information and belief, including his experience  
4 of being called numerous times by Defendant as described herein, that Defendant  
5 lacked at all relevant times reasonable policies and procedures aimed at avoiding  
6 the violations of the TCPA as herein described.

7 **FACTUAL ALLEGATIONS – FDCPA**

8 18. In addition to the facts pled above, at various times prior to the filing  
9 of the instant complaint, including within one year preceding the filing of this  
10 complaint, Defendant contacted Plaintiff in an attempt to collect an alleged  
11 outstanding debt.

12 19. Throughout April of 2017, Plaintiff received numerous calls from  
13 Defendant.

14 20. Each of these calls were made to Plaintiff in connection with  
15 collection on an alleged debt.

16 21. Defendant's conduct violated the FDCPA and RFDCPA in multiple  
17 ways, including but not limited to:

- 18
- 19
- 20 a) Causing a telephone to ring repeatedly or continuously to annoy  
21 Plaintiff (Cal. Civ. Code § 1788.11(d));
- 22 b) Communicating, by telephone or in person, with Plaintiff with such  
23 frequency as to be unreasonable and to constitute an harassment to  
24 Plaintiff under the circumstances (Cal. Civ. Code § 1788.11(e));
- 25 c) Causing Plaintiffs telephone to ring repeatedly or continuously with  
26 intent to harass, annoy or abuse Plaintiff (15 U.S.C. § 1692d(5));
- 27 d) Communicating with Plaintiff at times or places which were known  
28 or should have been known to be inconvenient for Plaintiff (15  
U.S.C. § 1692c(a)(1)); and

1 e) Engaging in conduct the natural consequence of which is to harass,  
2 oppress, or abuse Plaintiff (15 U.S.C. § 1692d)).

3  
4 22. As a result of the above violations of the FDCPA and RFDCPA,  
5 Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal  
6 humiliation, embarrassment, mental anguish and emotional distress, and  
7 Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages,  
8 and costs and attorney's fees.

9 **CLASS ACTION ALLEGATIONS**

10 23. Plaintiff brings this action individually and on behalf of all others  
11 similarly situated, as a member of the proposed class (hereafter "The Class")  
12 defined as follows:

13 All persons within the United States who received any  
14 telephone calls from Defendant to said person's cellular  
15 telephone made through the use of any automatic  
16 telephone dialing system or an artificial or prerecorded  
17 voice and such person had not previously consented to  
18 receiving such calls within the four years prior to the  
19 filing of this Complaint

20 24. Plaintiff represents, and is a member of, The Class, consisting of All  
21 persons within the United States who received any collection telephone calls from  
22 Defendant to said person's cellular telephone made through the use of any  
23 automatic telephone dialing system or an artificial or prerecorded voice and such  
24 person had not previously not provided their cellular telephone number to  
25 Defendant within the four years prior to the filing of this Complaint.

26 25. Defendant, its employees and agents are excluded from The Class.  
27 Plaintiff does not know the number of members in The Class, but believes the Class  
28 members number in the thousands, if not more. Thus, this matter should be  
certified as a Class Action to assist in the expeditious litigation of the matter.

26. The Class is so numerous that the individual joinder of all of its

1 members is impractical. While the exact number and identities of The Class  
2 members are unknown to Plaintiff at this time and can only be ascertained through  
3 appropriate discovery, Plaintiff is informed and believes and thereon alleges that  
4 The Class includes thousands of members. Plaintiff alleges that The Class  
5 members may be ascertained by the records maintained by Defendant.

6 27. Plaintiff and members of The Class were harmed by the acts of  
7 Defendant in at least the following ways: Defendant illegally contacted Plaintiff  
8 and Class members via their cellular telephones thereby causing Plaintiff and Class  
9 members to incur certain charges or reduced telephone time for which Plaintiff and  
10 Class members had previously paid by having to retrieve or administer messages  
11 left by Defendant during those illegal calls, and invading the privacy of said  
12 Plaintiff and Class members.

13 28. Common questions of fact and law exist as to all members of The  
14 Class which predominate over any questions affecting only individual members of  
15 The Class. These common legal and factual questions, which do not vary between  
16 Class members, and which may be determined without reference to the individual  
17 circumstances of any Class members, include, but are not limited to, the following:

- 18 a. Whether, within the four years prior to the filing of this  
19 Complaint, Defendant made any collection call (other than a  
20 call made for emergency purposes or made with the prior  
21 express consent of the called party) to a Class member using  
22 any automatic telephone dialing system or any artificial or  
23 prerecorded voice to any telephone number assigned to a  
24 cellular telephone service;
- 25 b. Whether Plaintiff and the Class members were damages  
26 thereby, and the extent of damages for such violation; and
- 27 c. Whether Defendant should be enjoined from engaging in such  
28 conduct in the future.



1           29. As a person that received numerous collection calls from Defendant  
2 using an automatic telephone dialing system or an artificial or prerecorded voice,  
3 without Plaintiff's prior express consent, Plaintiff is asserting claims that are  
4 typical of The Class.

5           30. Plaintiff will fairly and adequately protect the interests of the members  
6 of The Class. Plaintiff has retained attorneys experienced in the prosecution of  
7 class actions.

8           31. A class action is superior to other available methods of fair and  
9 efficient adjudication of this controversy, since individual litigation of the claims  
10 of all Class members is impracticable. Even if every Class member could afford  
11 individual litigation, the court system could not. It would be unduly burdensome  
12 to the courts in which individual litigation of numerous issues would proceed.  
13 Individualized litigation would also present the potential for varying, inconsistent,  
14 or contradictory judgments and would magnify the delay and expense to all parties  
15 and to the court system resulting from multiple trials of the same complex factual  
16 issues. By contrast, the conduct of this action as a class action presents fewer  
17 management difficulties, conserves the resources of the parties and of the court  
18 system, and protects the rights of each Class member.

19           32. The prosecution of separate actions by individual Class members  
20 would create a risk of adjudications with respect to them that would, as a practical  
21 matter, be dispositive of the interests of the other Class members not parties to such  
22 adjudications or that would substantially impair or impede the ability of such non-  
23 party Class members to protect their interests.

24           33. Defendant has acted or refused to act in respects generally applicable  
25 to The Class, thereby making appropriate final and injunctive relief with regard to  
26 the members of The Class as a whole.

27 ///



**FIRST CAUSE OF ACTION**

**Negligent Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227 et seq.**

**By Plaintiff and The Class Against Defendant**

34. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-33.

35. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

36. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

37. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

**SECOND CAUSE OF ACTION**

**Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227 et seq.**

**By Plaintiff and The Class Against Defendant**

38. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-33.

39. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

40. As a result of Defendant's knowing and/or willful violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*

1 § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

2 41. Plaintiff and the Class members are also entitled to and seek  
3 injunctive relief prohibiting such conduct in the future.

4 **THIRD CAUSE OF ACTION**

5 **Violations of the Federal Fair Debt Collection Practices Act**

6 **15 U.S.C. § 1692 et seq.**

7 **By Plaintiff, Individually, Against Defendant**

8 42. Plaintiff repeats and reincorporates by reference into this cause of  
9 action allegations set forth above at paragraphs 1-22.

10 43. To the extent that Defendant's actions, counted above, violated the  
11 RFDCPA, those actions were done knowingly and willfully.

12 **FOURTH CAUSE OF ACTION**

13 **Violations of the Rosenthal Fair Debt Collection Practices Act**

14 **Cal. Civ. Code § 1788 et seq.**

15 **By Plaintiff, Individually, Against Defendant**

16 44. Plaintiff repeats and reincorporates by reference into this cause of  
17 action allegations set forth above at paragraphs 1-22.

18 45. To the extent that Defendant's actions, counted above, violated the  
19 RFDCPA, those actions were done knowingly and willfully.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

22 **FIRST CAUSE OF ACTION**

23 **Negligent Violations of the Telephone Consumer Protection Act**

24 **47 U.S.C. §227 et seq.**

- 25 • As a result of Defendant's negligent violations of 47 U.S.C.  
26 §227(b)(1), Plaintiff and the Class members are entitled to and  
27 request \$500 in statutory damages, for each and every violation,  
28 pursuant to 47 U.S.C. 227(b)(3)(B).

- Any and all other relief that the Court deems just and proper.

## **SECOND CAUSE OF ACTION**

### **Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

#### **47 U.S.C. §227 et seq.**

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

## **THIRD CAUSE OF ACTION**

### **Violations of the Federal Fair Debt Collection Practices Act**

#### **15 U.S.C. § 1692 et seq.**

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
- B. Statutory damages for willful and negligent violations;
- C. Costs and reasonable attorney's fees,
- D. For such other and further relief as may be just and proper.

## **FOURTH CAUSE OF ACTION**

### **Violations of the Rosenthal Fair Debt Collection Practices Act**

#### **Cal. Civ. Code § 1788 et seq.**

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
- B. Statutory damages for willful and negligent violations;
- C. Costs and reasonable attorney's fees,

1 D. For such other and further relief as may be just and proper.

2 **TRIAL BY JURY**

3 46. Pursuant to the Seventh Amendment to the Constitution of the United  
4 States of America, Plaintiff is entitled to, and demands, a trial by jury.

5  
6 Respectfully submitted this 11<sup>th</sup> of May, 2018.

7  
8 LAW OFFICES OF TODD M. FRIEDMAN, P.C.

9  
10 By: /s/ Todd M. Friedman  
11 Todd M. Friedman  
12 Law Offices of Todd M. Friedman  
13 Attorney for Plaintiff  
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